

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6711 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

CHHATRASINH MARGAJI PADIYAR

Versus

STATE OF GUJARAT

Appearance:

M/S THAKKAR ASSOC. for Petitioners

MR KT DAVE, AGP for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 04/11/98

ORAL JUDGEMENT

Rule. Service of rule waived by Mr. K.T. Dave,
Ld. AGP for the respondents.

2. Heard Mr. Thakkar, learned senior counsel for
M/s. Thakker Associates for the petitioners and Mr. K.T.
Dave, Ld. AGP for the respondent authorities.

3. Mr. Dave, ld. AGP states that petitioner will not be evicted without giving notice and without hearing them. In view of this statement he states that the petition be disposed of.

4. Mr. Thakkar, however, states that the main dispute raised in the present petition is with regard to the ownership of the land in question. He states that the land in question is of the ownership of the petitioner, whereas the Government is also claiming the ownership of the subject land. He, therefore, submits that the authorities are required to refer this dispute to the concerned authority in proceedings under Sec. 37 of the Bombay Land Revenue Code, 1894 or file a Civil Suit for declaration.

In reply, it has been submitted by Mr. K.T. Dave, ld. AGP that the land in question belongs to the Government.

5. Be that it may, interest of justice will be met if following order is passed :-

The respondents are directed not to take any action against the petitioners except after issuing notice to the petitioners and after hearing them. When such a notice is issued to the petitioners, it will be open for the petitioners to raise all available objections/contentions. It is directed that the respondent authorities will consider all the contentions/objections as may be raised by the petitioners and take appropriate decision in accordance with law by passing a speaking order after hearing the petitioners. It is however, directed that in the event the decision is adverse, the same shall not be implemented for a period of two weeks from the date of receipt of communication of the order that may be passed.

Rule is made absolute to the extent aforesaid. No cost. DSP.

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